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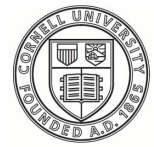

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Board Decisions - NYS PERB

New York State Public Employment Relations Board (PERB)

4-15-1985

State of New York Public Employment Relations Board Decisions from April 15, 1985

New York State Public Employment Relations Board

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State of New York Public Employment Relations Board Decisions from April 15, 1985

Keywords

NY, NYS, New York State, PERB, Public Employment Relations Board, board decisions, labor disputes, labor relations

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

HAUPPAUGE SCHOOLS OFFICE STAFF ASSOCIATION,

Respondent,

-and-

CASE NO. U-7544

MADELON HAFFNER,

Charging Party.

MADELON HAFFNER, pro se

JOHN J. FLANIGAN, ESQ., for Respondent

BOARD DECISION AND ORDER

This matter comes to us on the exceptions of Madelon Haffner to a decision of an Administrative Law Judge (ALJ) dismissing her charge against the Hauppauge Schools Office Staff Association (Association). The charge alleges that the Association violated §209-a.2(a) of the Taylor Law by not filing a grievance on her behalf against the Hauppauge Union Free School District (District).[1/]

[1/]The Acting Director of Public Employment Practices and Representation had originally dismissed the charge on the ground that the facts alleged and as clarified do not, as a matter of law, constitute a violation of the Act. 17 PERB ¶4594 (1984). Finding that the allegations may constitute a violation, we reversed and remanded the matter. 17 PERB ¶3106 (1984).

Facts

Haffner had requested the Association to file a grievance complaining that the District had improperly passed her over for promotion to the position of senior stenographer. The basis of her complaint was her assertion that the action of the District constituted a violation of its collective bargaining agreement with the Association. In pertinent part, the collective bargaining agreement provides:

> C. Promotions
>
> All job openings and promotions shall be posted, and all employees in the unit shall have the opportunity to apply for same. The Board shall offer said openings and promotions to employees who have bid upon them on the basis of ability, seniority and qualifications to perform the job efficiently. No persons outside the District may be considered for said openings and promotions unless in the opinion of the Board or its designee, no unit employee had the requisite ability and qualifications. In every case, the appropriate Civil Service regulations shall govern and all Civil Service procedures shall be followed. (Emphasis added).

Haffner asserted that the District had promoted Wall, a fellow employee, to the position of senior stenographer even though Wall had less seniority than she, and, as indicated by Civil Service examination scores, had lesser qualifications to perform in that position.

Upon receiving Haffner's request that it file the grievance, the Association referred the matter to a committee. The committee met with a representative of the District who told it that it was the District's position that

the collective bargaining agreement did not mandate Haffner's promotion. The District explained that it understood the last sentence of the contract excerpt quoted above to mean that the seniority/qualifications language applied only when there was a valid Civil Service promotional list, and that there was no such list in the instant situtation. The Association's committee reported this to its executive board and, after due deliberation, the executive board concurred in the District's interpretation of the clause of the agreement. Accordingly, it refused to file the grievance.

Discussion

An employee organization violates §209-a.2(a) of the Taylor Law when it refuses to file a grievance on behalf of a unit employee by reason of improper motivation or because it was grossly negligent or irresponsible in evaluating the employee's complaint. Haffner does not assert that the Association was improperly motivated. Neither does she allege gross negligence. She does argue, however, that the District's interpretation of the collective bargaining agreement is patently unreasonable and that the Association acted irresponsibly in accepting that interpretation.

Haffner understands the "promotions" clause of the collective bargaining agreement to provide that the District shall offer promotions on the basis of seniority and qualifications so long as the person to be appointed on that

basis is eligible under Civil Service regulations and procedures. We find this to be a reasonable reading of the clause. We cannot say, however, that it is the only possible interpretation of it, and that the Association acted irresponsibly when it concurred in the interpretation of the clause that was offered by the District. Accordingly, we affirm the decision of the ALJ.

NOW, THEREFORE, WE ORDER that the charge herein be, and it hereby is, dismissed.

DATED: April 15, 1985
Albany, New York

Harold R. Newman, Chairman

David C. Randles, Member